

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**GARY BRICE MCBAY**

**PLAINTIFF**

**V.**

**CIVIL ACTION NO. 1:07CV1205-LG-RHW**

**HARRISON COUNTY, MISSISSIPPI, ET AL.**

**DEFENDANTS**

**DEFENDANT, GEORGE PAYNE'S MOTION IN LIMINE NO. 7  
TO BAR PLAINTIFF'S EVIDENCE AND REFERENCES TO  
ALLEGED PHOTOGRAPHS OF PLAINTIFF**

COMES NOW, Defendant, Sheriff George Payne, in his official capacity, by and through his attorneys of record, Dukes, Dukes, Keating & Faneca, P.A., and moves this Honorable Court in *limine*, for an Order barring Plaintiff's evidence and references to alleged photographs of Gary Brice McBay. In support thereof, Defendant states as follows:

1. Defendant respectfully moves this Court to bar Plaintiff from offering any reference, testimony or argument referencing alleged photographs of Gary Brice McBay, pursuant to Fed. R. Evid. 901, as Plaintiff has failed to properly authenticate these photographs. *See* Photographs, **Exhibit " "**. Further, the prejudicial effect of this evidence outweighs its probative value and should be excluded pursuant to Fed. R. Evid. 403.

WHEREFORE PREMISES CONSIDERED Defendant, George Payne respectfully requests this Court to enter an Order granting this Motion in Limine and respectfully requests the Court to enter an Order as follows:

A) Directing the Plaintiff through their respective counsel, and counsel individually, not to mention, refer to, interrogate concerning, voluntarily answer, or attempt to convey before the jury whether orally or through a document, at any time during these proceedings, in any manner, either directly or indirectly, the subject matters as stated above without first informing the Court and obtaining permission of the

court outside the presence and hearing of the jury;

- B) Instructing the Plaintiff, through their respective counsel, and counsel individually, not to make any reference or inference to the fact that this motion has been filed, argued or ruled upon by this Court; and
- C) Instructing Plaintiff and Plaintiff's attorney to warn and caution each and every witness appearing in their phase of this litigation to strictly comply with the Court's ruling.

RESPECTFULLY SUBMITTED, this the 1<sup>st</sup> day of April, 2009.

**GEORGE PAYNE, JR., IN HIS OFFICIAL  
CAPACITY ONLY, Defendant**

**DUKES, DUKES, KEATING & FANECA, P.A.**

BY: /s/Cy Faneca  
CY FANECA

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**CERTIFICATE OF SERVICE**

I, CY FANECA, do hereby certify that I have this day electronically filed with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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This, the 1<sup>st</sup> day of April, 2010.

s/CyFaneCA  
CY FANECA